

STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT

OPEN SESSION AGENDA

Friday, April 1, 2005
(9:15 am - 12:30 and 1:00 - 5:00 pm)

Saturday, April 2, 2005
(9:a.m. - 12:30 and 1:00 - 5:p.m)

LA-State Bar Office
1149 South Hill Street
Los Angeles, CA 90015
(213) 765-1000

[NOTE RE MEETING SITE: For members of the public, the open session portion of this meeting also can be accessed by video-conference from the State Bar Office in San Francisco at 180 Howard Street, Room 8-B. Members of the public who wish to attend this meeting at either site are asked to call Audrey Hollins at 415-538-2167.]

I. APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE NOVEMBER 19, 2004 & DECEMBER 10, 2004 MEETINGS

(Refer to Mr. Mohr's February 4, 2005 meeting notes circulated with assignment mailing. Draft action summary for the November 19, 2004 and December 10, 2004 meetings to be circulated prior to the April meeting.)

II. REMARKS OF CHAIR

A. Chair's Report

(The Chair will provide an oral report on administrative, procedural, or other informational matters.)

B. Staff's Report

(Staff will report on the activities of COPRAC and the Board of Governors.)

III. **MATTERS FOR ACTION** (Name with asterisk is lead drafter, underline indicates a newly added co-drafter.)

*Foy
Julien
Peck

- A. **Report on the Board Referral of Trust and Estates Section Legislative Proposal 2005-02 (re Impaired Clients) [ABA MR 1.14]**
[anticipated 1-hour discussion]
(Materials to be distributed prior to meeting.)

*Ruvolo
Tuft
Vapnek
Mohr

- B.1 **Counterpart to Rule 1-310X [ABA MR 5.1/5.4] re Lawyers Influencing Lawyers**
[anticipated ½-hour discussion]
(Materials enclosed.) **[pages 1 – 4]**

IMPORTANT PRE-MEETING DEADLINE: As indicated in the assignment agenda and covering memo, the chair may deem 5.1 and proposed comments 1-2, 6, 8, and 9 relating thereto as adopted by the Commission absent written objection, together with an explanation of the objection, **by March 23.**

*Ruvolo
Tuft
Vapnek
Mohr

- B.2 **Consideration of Rule 5.2. Responsibilities of a Subordinate Lawyer**
([anticipated ½-hour discussion]
(Following discussion of Rule 5.1 above proposed Rule 5.2 will be discussed. Materials enclosed.) **[pages 5 – 6]**

*Tuft
Martinez
Peck

- C. **Consideration of Rule 5.4. Professional Independence of a Lawyer (aka Rule 1-310X)**
[anticipated ½-hour discussion]
(Materials enclosed – 10-day mail ballot memo; annotated version of rule; redline version of rule; e-mails in response to 10-day mail ballot. Only those issues raised in these e-mails will be considered.) **[pages 7 – 28]**

*Tuft
Foy
Melchior

D. Consideration of Rule 3-210 [ABA MR 1.2(d)]. Advising the Violation of Law

[anticipated ½-hour discussion]
(Materials enclosed.) **[pages 29 – 32]**

IMPORTANT PRE-MEETING DEADLINE: As indicated in the assignment agenda and covering memo, the chair may deem 1.2.1 and proposed comments 1, 2, alternative 3, 6 and 7 relating thereto as adopted by the Commission absent written objection, together with an explanation of the objection, **by March 23.**

*Vapnek
Peck
Ruvolo

E. Consideration of Rule 3-110 [ABA MR 1.1]. Failing to Act Competently

[anticipated 1-hour discussion]
(Materials enclosed.) **[pages 33 – 36]**

*Lamport
Tuft
Voogd

F. Consideration of Rule 3-300 [ABA MR 1.8(a)]. Avoiding Interests Adverse to a Client

[anticipated ½-hour discussion]
(Revised draft rule to be distributed prior to meeting. Only the concerns expressed in Kevin's enclosed e-mail compilation dated 10/5/04, together with any issues raised by the co-drafters will be considered.)
[pages 37 – 46]

*Voogd
Tuft
Ruvolo

G. Consideration of Rule 3-200 [ABA MR 3.1 and 3.2]. Prohibited Objectives of Employment

[anticipated 1-hour discussion]
(Materials enclosed.) **[pages 47 – 72]**

IMPORTANT PRE-MEETING DEADLINE: As indicated in the assignment agenda and covering memo, the chair may deem MR 3.1 and the comments relating thereto as adopted by the Commission absent written objection, together with an explanation of the objection, **by March 23.** ABA MR 3.2 is to be separately considered under this agenda item.

*Lamport
Julien
Vapnek

H. Consideration of Rule 2-200. Financial Arrangements Among Lawyers

[anticipated 1-hour discussion]

(Matter carried over from February 4th meeting. Materials circulated for February 4th meeting enclosed.) **[pages 73 – 78]**

*Tuft
Martinez
Peck

I. Consideration of Rule 1-300 [ABA MR 5.5] (Unauthorized Practice of Law) (Including consideration of discussion section re “definition of the practice of law”)

[anticipated 1-hour discussion]

(Materials enclosed.) **[pages 79 – 144].**

IMPORTANT PRE-MEETING DEADLINE: As indicated in the assignment agenda and covering memo, the chair may deem 1-300 and proposed comments 1-5 relating thereto as adopted by the Commission absent written objection, together with an explanation of the objection, **by March 23.**

*Lamport
Foy
Melchior
Mohr
Voogd

J. Consideration of Rule 3-600 [ABA MR 1.13] (Organization as Client)

[anticipated 1-hour discussion]

(Materials to be distributed prior to meeting.)

*Peck
Martinez

K. Consideration of Rule 2-400. Prohibited Discriminatory Conduct in a Law Practice

[anticipated ½-hour discussion]

(Materials to be distributed prior to meeting.)

*Kehr
Sapiro
SeLegue

L. Consideration of ABA MR 5.7. Responsibilities Regarding Law-Related Services (no California counterpart)

[anticipated 1-hour discussion]

(Materials enclosed.) **[pages 145 – 170]**

*Melchior
Martinez
Sapiro

- M. Consideration of Rule 2-300 [ABA MR 1.17] Sale or Purchase of a Law Practice of a Member, Living or Deceased**
[anticipated 1-hour discussion]
(Materials enclosed.) **[pages 171 – 198]**

*SeLeague
Kehr
Melchior

- N. Consideration of Rule 3-310 [ABA MR 1.7, 1.8, 1.9, 1.10, 1.11] Avoiding the Representation of Adverse Interests**
[anticipated 1½ -hour discussion]
(Materials enclosed.) **[pages 199 – 256]**

*Melchior
Julien
Voogd

- O. Consideration of Rule 3-320 Relationship with Other Party's Lawyer**
[anticipated ½ -hour discussion]
(Materials enclosed.) **[pages 257 – 264]**

*Martinez
Sapiro
Voogd

- P. Consideration of Rule 2-100 [ABA MR 4.2] Communication With a Represented Party**
[anticipated 1-hour discussion]
(Materials enclosed.) **[pages 265 – 276]**

**STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT**

CLOSED SESSION AGENDA*

**Friday, April 1, 2005
(9:00 a.m - 9:15 a.m.)**

**LA–State Bar Office
1149 South Hill Street
Los Angeles, CA 90015
(213) 765-1000**

- I. **APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE NOVEMBER 19, 2004 & DECEMBER 10, 2004 MEETINGS**
(Draft action summaries to be circulated prior to April meeting.)

- II. **ADVICE OF COUNSEL ON OPEN SESSION AGENDA ITEMS**

- III. **ACTION ITEMS.**
 - A. **Emergency action items, if any.**

* Closed pursuant to Article 3, Section 2, Subdivision (b), Rules Governing Open Meetings, Closed Sessions and Records of the Board of Governors.